IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.7148 OF 2003

Shri Anil Suresh Kamble)
Age __ Years, Occupational Nil)
residing at Village Milindnagar)
Dist. Buldhana (M.S.) 443 001.).. PETITIONER

VERSUS

1) Union of India)
Through IGP Central Reserve Police)
Force, Western Sector, Navi Mumbai.)

2) The Addl. DIGP Group Centre)
Central Reserve Police Force)
Nagpur, Nagpur 440 019.)

3) IGP Central Reserve Police Force)
Western Sector Navi Mumbai).. RESPONDENTS

Mr.Anil Subramaniam for the Petitioner.

Mr.Kiran Kandpile for the Respondents.

CORAM: V.G. PALSHIKAR AND
SMT.NISHITA MHATRE, JJ.

DATED: 23RD FEBRUARY 2005

ORAL JUDGMENT : (PER MHATRE, J.)

. This Petition impugns the order passed by the Additional DIGP, Group Centre, Central Reserve Police Force, Nagpur terminating the services of the Petitioner under the provisions of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 (hereinafter referred to as "the Rules") and the order passed by the Appellate Authority confirming the order.

2. The facts in this case are not in dispute. In February 2001, the Petitioner was appointed as a Constable/GD with the Central Reserve Police Force on a purely temporary basis. His services were terminated on 30th August 2001 under Rule 5 of the Rules. The Appellate Authority dismissed the Appeal of the Petitioner on 9th March 2002.

3. The grievance of the Petitioner in the Writ Petition is that his services have been terminated without following the principles of natural justice and fair play as no enquiry was held prior to the determination of his service. According to the Petitioner, he was to be made permanent in the near future, as stated in the letter of appointment, and, therefore, the appointment could not be considered as a temporary appointment. Reliance is placed on a judgment of the Division Bench of this Court sitting at Aurangabad Bench in *Vikas Ramesh Patil* vs. *The Union of India and another*, **Writ Petition No.4884 of 2001**, where, according to the Petitioner, the facts involved were similar as to the case before us. The Petitioner claims the same relief as was granted by the Division Bench in that case.

4. Having heard the learned Counsel for the Petitioner, we are of the view that no relief can be granted in the present Petition. The order of appointment which is annexed to the Petition discloses that the appointment was purely temporary in nature. The appointment order also stipulates that certain conditions were required to be fulfilled by the Petitioner, prior to being made permanent in service. He was also made aware that the temporary appointment was not limited to a specified period. Rule 5 of the Rules no doubt empowers the appointing authority to terminate the services of a temporary employee without assigning any reason. Accordingly, the termination order merely states that the services of the Petitioner are being terminated under Rule 5 of the Rules and that his name is struck off from the strength of that Group Centre from a particular date. The Appellate Authority has considered the order and the relevant record and has concluded that the order passed needed no interference.

5. The judgment cited at the bar is of no avail to the Petitioner. In that case, it was found that the physique of the candidate did not attain the requisite standards and, therefore, he was terminated from service. This Court directed that since the difference was very small, a second chance ought to be given to the candidate. In the present case, it appears that the

Petitioner has already been examined twice and has yet been found wanting in his physique. We, therefore, see no reason to interfere with the order.

6. The submission made on behalf of the Petitioner that this being an administrative order, there has to be a foundation for the impugned order also cannot be accepted. The reliance placed on the case of *Indian Railway Construction Co. Ltd.* vs. *Ajay Kumar*, **AIR 2003 SC 1843**, is of no avail as that was a case where the employee had been dismissed. The Supreme Court was considering the power of judicial review of administrative action. In the present case, the order has been passed under the service Rules applicable and we, therefore, see no reason to interfere with the same as it has been passed in accordance with law.

7. Writ Petition rejected. Rule discharged. No order as to costs.

(V.G. PALSHIKAR, J.)

(SMT.NISHITA MHATRE, J.)